

SUNSHINE REFORM TASK FORCE MEETING MINUTES

**Thursday, March, 15 2007
6:00pm – 9:00pm**

City Hall, W118-119

Present: Ken Podgorsek, United Neighborhoods of SCC; Ed Rast, Strong Neighborhoods Initiative PAC; Nanci Williams, San José/Silicon Valley Chamber of Commerce; Dan Pulcrano, Silicon Valley Leadership Group; Bobbie Fischler, League of Women Voters; Susan Goldberg, San José Mercury News; Dave Zenker, Falls Creek Neighborhood Association; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Margie Matthews, Former Councilmember; Mary Ann Ruiz, Parks and Recreation Commission; Karl Hoffower, Citizens Commission on Human Rights; Brenda Otey, At Large-Representative; Edward Davis, Orrick Law Firm (Legal Counsel).

Absent: Bob Brownstein, South Bay Labor Council; Judy Nadler, Markkula Center for Applied Ethics.

Staff: Lisa Herrick, Senior Deputy City Attorney; Dan McFadden, Interim Deputy City Manager; Eva Terrazas, Office of the City Manager/Redevelopment Agency; Sheila Tucker, Office of the City Manager; Tom Manheim, Office of the City Manager.

I. Approval of February 24, 2007 Meeting Minutes

A. Upon a motion by Virginia Holtz, seconded by Ken Podgorsek, the February 24, 2007, minutes were approved (Susan Goldberg abstained).

B. Approval of March 1, 2007 Meeting Minutes

Upon a motion made by Bobbie Fischler, seconded by Virginia Holtz, the March 1, 2007, minutes were approved with the following two amendments (Ken Podgorsek abstained):

1. Amend Item I. Approval of February 15, 2007 Minutes to note there were three abstentions instead of four.
2. Amend the motion on Item V.A. related to the Task Force's recommendations on calendaring to note Task Force member Margie Mathews dissented.

II. Comments from Chair

Chair Rast requested that Item VII. "Review of the SRTF's Draft Status Report" be moved up on the agenda and heard as Item IV.

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The Task Force discussed the potential need to conduct additional meetings in April, 2007, to complete the Task Force's recommendations on Phase 1 of the Sunshine Ordinance.

III. Review of Meeting Material

Staff provided an overview of the documents for the meeting and noted that the City is continuing to receive letters from the public regarding police records. The letters are maintained in a binder and available for review at each Task Force meeting, and are now available on the City's web-site.

IV. Discussion and Approval of the SRTF's Status Report to the City Council on Preliminary Recommendations, Outstanding Issues, and Schedule.

A. The Task Force reviewed the report and requested staff to include:

1. council appointees to the calendaring requirements (Public Information provisions - Item C.1);
2. minority opinion on the definition of the non-government body (Public Meeting provisions);
3. SRTF's agreement to audio record all closed sessions (Closed Session provisions);
4. SRTF's recommendations on litigation (Closed Session provisions).

B. Staff will revise the draft report, including the decisions made at the March 15, 2007 SRTF meeting and work with the Committee Chairs and the Task Force Chair and Vice-Chair to finalize the status report.

V. Wrap-up Discussion on Public Information Provisions

A. Staff provided an overview of the City's Policy 6-30. The Policy guides how the City conducts outreach on major development projects. Chairperson Rast reviewed his memorandum to the Task Force pointing to a gap in the City's formalized outreach policies.

Upon a motion made by Dave Zenker, seconded by Virginia Holtz, the Task Force approved the following (Dan Pulcrano abstained):

1. Include by reference, current City practice related to: 1) Policy 6-30 *Public Outreach for Land Use / Development Proposal* which establishes a range of outreach efforts depending on the size of a land use proposal, and 2) outreach for capital projects (CIP Outreach Policy; Council Policy 5-6-Traffic Calming; and Outreach Policy for Parks, Recreation & Neighborhood Services).

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2. Create a policy to address City-initiated policy actions that have a significant citywide impact. The Policy would require a community engagement process to be conducted when any City Department or Office is initiating a planning process that would have significant citywide impact or lead to a change in citywide service levels such as a Master Planning Process and the Annual Budget Process. The process would be required to be applied consistently across all City departments and would replicate the most extensive outreach requirements contained in Policy 6-30 including the following:
 - i. Early Notification
 - Post on City Website
 - Email Distribution
 - ii. Community Meetings (at least two meeting at points meaningful in the process, and one to present the final recommendations).
 - Post on City Website
 - Email Distribution
 - Direct Mail
 - Flyers in Community Centers and Libraries
 - iii. Public Hearing Notices
 - Post on City Website
 - Email Distribution
 - Direct mail
 - Flyers in Community Centers and Libraries
 - Notice in newspapers
 - City Television Channel

B. Recommendation F. Lobbyist on Behalf of City of San Jose

Staff noted the policy endorsed by the Task Force recommended modeling the language in this section on the language contained in the City of Milpitas Ordinance. Because the City's lobbyist in Washington works on behalf of other public entities in addition to the City of San Jose the Milpitas language fails to limit the requirement to expenditures to those "...advancing lobbying efforts on behalf of the City,"

Staff recommends that language narrowing the reporting requirement be added to the Task Force recommendation. This change would eliminate the unintended consequence of extending the reporting requirement to lobbying efforts unrelated to the City of San Jose.

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Upon a motion made by Dave Zenker, seconded by Virginia Holtz, the recommendation was unanimously approved.

VI. Closed Session Provisions

The Task Force discussed Bob Brownstein's recommendations on labor negotiations.

Upon a motion made by Dan Pulcrano, seconded by Margie Matthews, the Task Force agreed to recommend (Karl Hoffower and Brenda Otey dissented):

1. All proposed contracts with represented and unrepresented employees and the Council appointees be approved by the policy body in open session. Notice must be 10 days for contracts that are under \$1 million, and 14 days for contracts over \$1 million before the contract is scheduled to be discussed in open session.
2. Refer for legal analysis its recommendations on labor negotiations to the Attorney's Office and an external labor law attorney.

Public Comment: Linda Dittes, local resident and Business Agent for American Federation of State, County, and Municipal Employees (AFSCME), representing three bargaining units in the City. Ms. Dittes noted she did not see an issue with the 10 or 14 day posting requirement. However, the membership does have a problem with the perception that it is done deal when the Council has approved an agreement before the union ratifies the agreement. Members believe it is not an open process, their input doesn't matter, and results in low voter turn out. Ms. Dittes noted posting the agreement 10 to 14 days in advance and allowing public input, in and of itself is probably not an unfair labor charge. However, if the Council decides to change their mind, in light of the public input, than it may be a violation of good faith bargaining under the Myles-Milias Brown Act.

Upon a motion made by Brenda Otey, seconded by Mary Ann Ruiz, the Task Force unanimously agreed to recommend that a study session is conducted annually, early in the year, to educate the public on the negotiations process for all bargaining units and provide an opportunity for the public to ask questions and provide meaningful input to impending labor negotiations. The process would be conducted at a time that provides a meaningful opportunity for the public to participate in the process.

VII. Wrap-up Discussion on Public Meetings

Discussion on this item was deferred.

VIII. Upcoming Agenda and Work Plan

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The April 5, 2007 meeting will focus on the remaining closed session provisions and public meeting provisions (with the exception of public subsidies). The April 19, 2007 meeting will begin with the discussion on requiring a cost-benefit analysis of major public subsidies.

Staff will determine if the Committee rooms are available for a meeting on April 26, 2007, if an additional meeting is necessary.

IX. Public Comment

None

Upon a motion by Ken Podgoresek, seconded by Margie Matthews, the Task Force adjourned at 8:30 p.m.